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January 16, 2003

**SUMMARY OF  
*EX PARTE* PRESENTATION**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWA325  
Washington, DC 20554

**Re: Section 251 Unbundling Obligations of Incumbent Local  
Exchange Carriers; Implementation of the Local Competition  
Provisions of the Telecommunications Act of 1996; Deployment of  
Wireline Services Offering Advanced Telecommunications Capability  
CC Docket Nos. 01-338; 96-98; and 98-147**

Dear Ms. Dortch:

On January 15, 2003, Walter B. McCormick, Jr., President and CEO of the United States Telecom Association (USTA), Dan Phythyon, Senior VP Law and Policy, USTA, and the undersigned, met with Commissioner Kathleen Q. Abernathy and Matthew Brill, Senior Legal Advisor. During the meeting, we discussed the above-referenced proceeding.

USTA urged Commissioner Abernathy to support Federal Communications Commission (FCC) action in this proceeding that: is bold; eliminates regulatory uncertainty; encourages telecommunications infrastructure investment; and restricts the ability of states to add to the list of unbundled network elements (UNE) adopted by the FCC. Further, USTA stated that switching should be removed (on a preemptive basis) as a UNE, that UNE policy is the sole province of the FCC, that any role concerning UNEs delegated by the FCC to state public service commissions (PSC) must be limited to fact finding, and that any disputes concerning factual findings by a state PSC must be reviewable by the FCC. USTA urged that the FCC immediately remove line sharing (on a preemptive basis) from the list of FCC mandated UNEs. USTA believes that the holding in *USTA v. FCC* (D.C. Cir. 2002) requires the FCC to acknowledge the broad level of intermodal competition that exists for mass market high speed access to the Internet and compels its removal from the UNE list.

Marlene H. Dortch  
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USTA stated that any measures considered to assess incumbent local exchange carrier (ILEC) performance related to the provisioning of UNEs must recognize the broad differences in demand that will be experienced by ILECs and be scalable in order to accommodate these differences. Any measures considered by the FCC should be based on sensible, real world projections and not on unsupportable or exaggerated volumes.

In accordance with FCC Rule 1.1206(b)(2), this Summary of *Ex Parte* Presentation is being filed electronically with your office for inclusion in the public record. Please feel free to contact me at (202) 326-7300 if you have any questions.

Sincerely,

/s/ Lawrence E. Sarjeant  
Lawrence E. Sarjeant  
Vice President – Law &  
General Counsel

cc: Commissioner Kathleen Q. Abernathy  
Matthew Brill